IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.4713 of 1999

Between:

Dr. M.Pullaiah Chary, S/o late M.Kotaiah Chary,

Aged about 60 years, Occ: Associate Professor of Law,

University College of Law, R/o OUB L/6, Osmania

University Campus, Hyderabad.

..... PETITIONER

AND

1. The Registrar, Osmania University, Hyderabad

2. The Secretary to Government, Higher Education,

Government of Andhra Pradesh, Secretariat,

Hyderabad, A.P.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Certiorari to call for the records, set aside/quash the proceeding issued by the respondents

vide Proceedings No.3213/503/65/Adm.II-2, dated 21-8-1998 and direct the respondents to treat the gap in service from 1-1-1974 to 6-10-1978 as continuous service with all consequential and monetary benefits.

Counsel for the Petitioner: Mr. MUDDU VIJAY

Counsel for the Respondent No.1: Mr. DEEPAK BHATTACHARJEE

Counsel for the Respondent No.2: GP FOR HIGHER EDUCATION

The Court made the following :

ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to quash the Proceedings dated 21-8-1998 passed by the 1st respondent and consequently to direct the respondents to treat the gap in service from 1-1-1974 to 6-10-1978 as continuous service with all consequential benefits.

Heard both sides and perused the entire material made available on record.

The petitioner while serving as a Caretaker in the Office of the Chief Warden, Hostels and Messes, Osmania University was permitted to prosecute higher studies in Law in United States of America. He was relieved from duty on the afternoon of 18-8-1971. He was granted earned leave, half pay leave and extraordinary leave from 19-8-1971 to 31-12-1973. He did not report for duty even after expiry of the extra-ordinary leave on 31-12-1973; instead, he went on extending his leave from 1-1-1974 to 30-6-1975 and remained absent without any leave application with effect from 1-7-1975. Finally, he came and reported for duty on 7-10-1978. His total absence from duty was more than seven years. In view of the same, his lien with the University was terminated from 1-1-1974 for his unauthorized absence, by Proceedings of the 1st respondent dated 28-5-1979. He did not challenge this order.

However, thereafter, the petitioner was appointed afresh into the service of the respondent-University and on attaining the age of superannuation he retired from service during the pendency of this Writ Petition. The petitioner made a faint effort and filed a letter dated 11-6-1998 i.e. after about two decades of the Order dated 28-5-1979 of the respondent-University terminating his lien, seeking to regularize the said period from 1-1-1974 to 6-10-1978 on which day he was offered new employment. The said request of the petitioner was considered by the Executive Council at its 31st meeting held on 5-8-1998 and decided not to condone the gap of service. Aggrieved by the same, the present Writ Petition is filed.

The Writ Petition suffers from irretrievable laches. Unless and until the petitioner had challenged the Proceedings of the respondent-University dated 28-5-1979 itself, the question of granting any relief to him in this Writ Petition would not arise. Further, merely the Executive Council rejected the representation dated 11-6-1998 of the petitioner, by the impugned Proceedings dated 21-8-1998, that itself does not amount to continuation of the litigation right from 1979 onwards. Even otherwise, the Executive Council of the University considered the matter and took a decision, which cannot be said to be either arbitrary or illegal requiring interference of this Court under Article 226 of the Constitution of India.

Accordingly, the Writ Petition is dismissed. No order as to costs.

08-7-2005

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Registrar, Osmania University, Hyderabad

2. The Secretary to Government, Higher Education,

Government of Andhra Pradesh, Secretariat,

Hyderabad, A.P.

3. 2 CCs to Government Pleader for Higher Education, High Court Buildings, Hyderabad (OUT).

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